



Elizabeth O'Donnell
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

November 1, 2006

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PUBLIC SERVICE
COMMISSION

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RE: In the Matter of Cumberland Valley Electric, Inc. v. Kentucky Utilities Company – Case No. 2006-00148

Dear Ms. O'Donnell:

Enclosed please find and accept for filing the original and eight (8) copies of Kentucky Utilities Company's Response to the Commission Staff's First Data Request dated October 18, 2006 in the above-referenced matter.

Should you have any questions or need any additional information, please contact me at your convenience.

Sincerely,

Allyson K. Sturgeon

AKS/kmw
Enclosures

C: Parties of Record

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

IN THE MATTER OF:

CUMBERLAND VALLEY ELECTRIC, INC.)

COMPLAINANT)

v.)

KENTUCKY UTILITIES COMPANY)

DEFENDANT)

CASE NO. 2006-00148

RESPONSE OF
KENTUCKY UTILITIES COMPANY
TO THE COMMISSION STAFF'S
FIRST DATA REQUEST
DATED OCTOBER 18, 2006

Filed: November 1, 2006

KENTUCKY UTILITIES COMPANY

CASE NO. 2006-00148

**Response to Commission Staff's
First Data Request
Dated 10/18/06**

Question No. 1

Witness: F. Howard Bush II

- Q-1. Refer to page 3 of the Direct Testimony of F. Howard Bush II ("Bush Testimony") wherein Mr. Bush states that the reserves to be mined at Stillhouse #2 are in the certified territories of both KU and Cumberland Valley Electric, Inc. ("Cumberland Valley"). Is it Mr. Bush's position that in providing service to Black Mountain Resources LLC ("BMR") for use in Stillhouse #2, KU is also providing service for use in Cumberland Valley's certified territory? Explain the response.
- A-1. Kentucky Utilities Company ("KU") is providing power to BMR at its Lynch Substation, in a manner consistent with the service it has rendered there since 1931. KU has no control over that power once it is delivered to the customer. However, it is accurate that BMR does deliver some of that power, via its own lines, for use at Stillhouse #2, which is located in the territory of both KU and Cumberland Valley Electric, Inc. ("CVE"). Thus, KU is providing service, at a point of delivery and sale well within its certified territory, which ultimately is used by an electric consuming facility which is located partially within CVE's certified territory.

KENTUCKY UTILITIES COMPANY

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**Response to Commission Staff's
First Data Request
Dated 10/18/06**

Question No. 2

Witness: F. Howard Bush II

- Q-2. Refer to page 3 of the Bush Testimony.
- a. State the distance from the coal conveyor near the portal to BMR's preparation plant.
 - b. Identify the retail electric supplier providing electricity service to the preparation plant.
- A-2.
- a. Based on information and belief, the distance is approximately 7.4 miles by road, or just over 12,000 feet in a straight line distance as measured by map.
 - b. KU is the retail electric supplier providing electricity to the preparation plant, which plant is located entirely within KU's certified territory. That power is delivered to BMR at the KU Lynch Substation, and then delivered to the preparation plant by BMR's own lines.

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**Response to Commission Staff's
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Question No. 3

Witness: F. Howard Bush II

Q-3. State when the new portal to Stillhouse #2 was constructed.

A-3. To the best of KU's knowledge and belief, that present portal at Stillhouse #2 was constructed in 2005.

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Question No. 4

Witness: F. Howard Bush II

- Q-4. Provide a map showing the location of all previous portals on the U.S. Steel Property that were located in Cumberland Valley's certified territory.
- a. State whether the reserves mined through these previous portals were located in both Cumberland Valley's and KU's certified territories.
 - b. State the name of the retail electric supplier for the mining activities that were conducted from these portals.
- A-4. KU does not possess maps or information related to the locations of such previous portals, and therefore has no basis for providing the requested map.
- a. To the best of KU's knowledge and belief, most, if not all, of the previous mining activities occurred in reserves located solely in KU's certified territory. However, based on the review of Exhibits Matda-1 and Matda-2, it appears that previous mining activities by Arch Minerals, or an Arch affiliate, in the area of Stillhouse #2 occurred in reserves in the territories of both KU and CVE.
 - b. To the best of KU's knowledge and belief, it is the only retail electric supplier that has ever served a mining activity conducted from a portal located on the U.S. Steel Property in Harlan County, Kentucky.

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Question No. 5

Witness: F. Howard Bush II

- Q-5. Provide all authorities that Mr. Bush reviewed to reach his conclusion that an electric substation is a central station source.
- A-5. As an initial matter, it is necessary to clarify that it is not Mr. Bush's conclusion that an electric substation is necessarily a central station source in all instances. Here, however, the KU Lynch Substation serves as the service entrance, metering and transforming equipment at which power is delivered to BMR. In such a situation, the Commission and reviewing courts have determined that the substation serving the territory at issue is the central station source.

Mr. Bush has reviewed the case of *Owen Co. Rural Elec. Coop. Corp. v. Public Service Commission*, 689 S.W.2d 599 (Ky.App. 1985), the Commission's order of May 23, 1990 in *In the Matter of: Kentucky Utilities Company v. Henderson-Union Rural Elec. Coop. Corp.*, Case No. 89-349, and the Franklin Circuit Court and Kentucky Court of Appeals decisions affirming the final order in Case No. 89-349, in reaching his conclusion on this issue.

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Question No. 6

Witness: F. Howard Bush II

- Q-6. Explain why, in Mr. Bush's opinion, the Commission should not interpret central station source as the generation facility that generates or produces the electricity that is ultimately consumed.
- A-6. To Mr. Bush's knowledge, the Commission has never interpreted the phrase "central station source" to be the generation facility that generates or produces the electricity that is ultimately consumed, and should not do so because such an interpretation would be entirely too broad, at least in the context at issue here. A generating facility often serves tens of thousands of customers, and if that facility were to be considered the central station source in this context, then literally thousands of customers could potentially be considered to be part of one "electric consuming facility." In addition, because a generating facility is generally not caused to be needed by any single customer, whereby substations or metering equipment can be, consideration of facilities farther down the line and closer to the territory at issue would tend to be more likely to further the statutory purpose of avoiding wasteful duplication of facilities and unnecessary encumbering of the landscape. Finally, depending upon market and other conditions, the generating facility that actually provides power which is ultimately used in any specific portion of a certified territory may change from time to time, whereas the identity of a substation and metering equipment serving that territory generally will not change.

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Question No. 7

Witness: F. Howard Bush II

- Q-7. Refer to page 4 of the Bush Testimony. Mr. Bush states that KU has provided power to mining operations on the U.S. Steel Property, which are now conducted by BMR, for approximately 75 years.
- a. State whether the service to the U.S. Steel Property over the past 75 years has been continuous.
 - b. Provide the name of every customer and the nature of the service that was provided by KU on any tract of land that is or previously was part of the U.S. Steel Property.
- A-7.
- a. To the best of KU's knowledge and belief, its service to the mining activities on the U.S. Steel Property in Harlan County, through the Lynch Substation, has been continuous since 1931, although the level of that service has fluctuated over the years.
 - b. KU does not have sufficient records or other information to fully answer this question. However, KU does know that it has served U.S. Steel, Arch Minerals (or an affiliate) and BMR in connection with mining operations on the U.S. Steel Property in Harlan County. Most of that service was provided at the KU Lynch Substation.